

# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

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January 21, 2004

EMS TRANSMISSION 1/22/2004  
Instruction Memorandum No. NV-2004-020  
Expires: 09/30/2005

To: Field Managers, Nevada

From: State Director, Nevada

Subject: Issuance of Wild Horse and Burro Decisions under Full Force and Effect

This Instruction Memorandum provides policy and guidance regarding public participation and review requirements for all Nevada wild horse and burro removal decisions placed in full force and effect under the authority provided in 43 CFR 4770.3 (c).

Removal decisions placed in full force and effect may include release or relocation of selected animals, fertility control, and any other action integral to the successful completion of the planned removal. All other actions (i.e., establishing appropriate management levels, range improvements, and herd area or population management plans ) are to be issued under 43 CFR 4.21.

When electing to place removal decisions in full force and effect, the following is required:

Field offices will make the Gather Plan Environmental Assessment (EA) available to the public for a 30-day review, except when herd or habitat conditions are critical and immediate action is required. To facilitate public review, a copy of the EA should be posted on the office's web page.

All individuals and organizations on the office's wild horse and burro mailing list will be notified by letter that the Gather Plan EA is available for review (on either the office's web page or by hard copy upon request). The timeframe for public comment will be specified and the public advised that any comments received will be considered during the decision making process. The notification letter will also briefly summarize the proposed action.

Notification letters will be sent via certified mail with a return receipt requested. Letters may also be sent electronically, providing the date the letter was received can be verified and documented for the administrative record.

In accordance with the Memorandum of Understanding between the State of Nevada and BLM (BLM MOU 1600-NEV-008-3), copies of the notification letter and the Gather Plan EA will be provided to the Nevada State Clearinghouse for distribution to state agencies. Electronic copies of the notification letter and EA may be provided to the Clearinghouse if prior arrangements are made and documented for the administrative record.

Soliciting public comments comes with an obligation to review and give fair consideration to the input we receive. Individuals/groups expressing concern should be contacted in an effort to clarify BLM's position and resolve the concern. Anyone commenting on the proposed action will be advised of the effect of their input. All individuals or organizations will be provided with a copy of the final decision, regardless of whether or not the individual/organization commented on the Gather Plan EA.

Cover letters transmitting the Decision Record/Finding of No Significant Impact (DR/FONSI) will be forwarded to all the affected interests via certified mail with a return receipt requested or transmitted electronically provided that receipt of the letter can be documented for the administrative record.

Transmittal letters shall clearly state that the decision will be effective on or about the date specified for implementation of the proposed action (i.e., placed in full force and effect). The letter shall also outline procedures for filing an appeal and petition for stay of a decision within 30 days of receipt of the decision in accordance with 43 CFR part 4 and 43 CFR 4770.3 (a). The transmittal letter will also notify the affected interests as to whether or not substantial changes were made in the EA as a result of public comments. Substantial changes should be documented in a modification to the EA and made available to the affected interests for review.

In issuing the final decision, the authorized officer is required to document his/her rationale for placing the decision in full force and effect. Among the factors to consider are: (1) potential impacts to animal health; (2) potential damage to rangeland resources; (3) an increase in the cost of conducting the proposed action or the time needed to restore a thriving natural ecological balance to the range; (4) the importance of the removal action in implementing other essential management actions; (5) a requirement to remove wild horses or burros to comply with a court order. This documentation will be in addition to and separate from the information used to justify removing excess wild horses and burros.

Field offices should keep their wild horse and burro mailing list current by annually contacting all individuals and groups to verify their continued interest in remaining on the list and the accuracy of their information. Returned letters identified as undeliverable due to incorrect address shall be sufficient cause to remove that individual or group from the mailing list. All field offices should ensure that individuals/groups with long-standing interest in wild horse and burro management or removal decisions within your jurisdiction as well as the Nevada State Clearinghouse, Nevada Commission for the Preservation of Wild Horses, and the Nevada Division of Wildlife are retained on their mailing lists.

In order to comply with Section 9 of the Wild Free-Roaming Horses and Burros Act, the Nevada State Office will continue to conduct an annual public hearing regarding the use of helicopters or motorized vehicles for wild horse and burro management as prescribed in BLM Manual 4740. Organizations and individuals on the state-wide mailing list shall be informed of the meeting and a notification published in the local newspaper(s). A notice in the Federal Register is not required.

If you have any questions regarding this memorandum, please call Susie Stokke at (775) 861-6469.

Signed by:  
Robert V. Abbey  
State Director

Authenticated by:  
Joanne Woodruff  
State Records Manager

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